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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

DC Universal, LLC,

Complainant,

vs.

California-American Water Company  
(U210W),

Defendant.

Case 16-07-012  
(Filed July 14, 2016)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER**

**Summary**

Pursuant to Rule 7.3 of the California Public Utilities Commission (Commission)'s Rules of Practice and Procedure (Rules),<sup>1</sup> this Scoping Memo and Ruling (Scoping Memo) sets forth the procedural schedule and issues to be addressed, confirms the preliminary determination regarding the need for hearings, designates the principal hearing officer, and addresses other matters needed to facilitate the efficient administration of this proceeding.

**1. Background**

On July 14, 2016, DC Universal, LLC (Complainant) filed this Complaint (C.) 16-07-012 alleging that California-American Water Company (Defendant)

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<sup>1</sup> All references to Rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website at:  
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M089/K380/89380172.PDF>.

improperly billed the Complainant for water-not-served to Complainant, for a period of about 11 years. The Complainant seeks an order from the Commission directing the Defendant to: (1) refund all billed amounts for the time period April 10, 2012 to April 10, 2015 for the water-not-served; and (2) instruct credit reporting agencies to clear Complainant's credit accounts with no negative connotations.

On August 29, 2016, the Defendant filed an Answer to the Complaint, contending that no refund is due to the Complainant, and that the Complaint should be dismissed as lacking merit.

On September 6, 2016, the Administrative Law Judge (ALJ) issued a ruling setting a Prehearing Conference (PHC) for September 27, 2016. The ruling directed the parties to meet and confer, and submit a PHC statement. On September 20, 2016, the parties filed a joint PHC statement with the Commission.

During the September 27, 2016 PHC, the parties and the ALJ discussed matters relating to the proceeding, including: (1) the permanent service list for this proceeding; (2) scope of the proceeding and issues to be included in the scoping memo; (3) categorization of the proceeding and need for hearing; (4) schedule for the proceeding; and (5) other procedural matters relevant to the proceeding, including the voluntary use of the Commission's free alternative dispute resolution service in the resolution of this proceeding by the parties.

## **2. Issues to Be Addressed**

The following issues are within the scope of this proceeding:

- a) Is DC Universal, LLC entitled to a refund of all money paid to California-American Water Company from April 10, 2012 to April 10, 2015, for water-not-served to DC Universal, LLC, but recorded and billed through Meter No. 14029146 to DC Universal, LLC?

- b) Should California - American Water Company be directed to instruct credit reporting agencies to clear DC Universal, LLC's credit accounts with no negative connotations in connection with the billing dispute?

### 3. **Schedule and Notices**

The following procedural schedule is set and affirmed. As necessary, the assigned Commissioner or ALJ may modify the schedule.

EVENTS	DATE
Prehearing Conference	September 27, 2016
Deadline for Discovery/Data Requests	October 15, 2016
Concurrent Opening Testimony	November 1, 2016
Concurrent Reply Testimony	November 15, 2016
Evidentiary Hearing (if required)	December 1, 2016, at 9:30 a.m. <u>Location:</u> Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102
Concurrent Opening Briefs	December 9, 2016
Concurrent Reply Briefs	December 16, 2016
Proposed Decision Issued	March 2017
Commission Meeting/Decision	May 2017

The proceeding will be submitted upon the filing of reply briefs, unless the assigned Commissioner or the ALJ directs further evidence or argument. Consistent with Pub. Util. Code § 1701.2(e), the Commission anticipates that this proceeding will be completed within 12 months of the date of initiation. In

addition, while unlikely, if there are any workshops in this proceeding, notices of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

**4. Categorization and Need for Hearing**

The Commission determined the category of this complaint proceeding is adjudicatory. Neither party has objected to the categorization. The Commission also determined that hearings are necessary in this proceeding. This ruling confirms the categorization and the determination that this proceeding requires evidentiary hearings.

**5. Principal Hearing Officer**

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules), Administrative Law Judge Adeniyi Ayoade is designated as the Presiding Officer.

**6. Ex Parte Rules**

Pursuant to Rule 8.3(b), ex parte communications are prohibited in adjudicatory proceedings.

**7. Filing, Service and Service List**

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocols set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings

using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving copies of documents, the document format must be consistent with the requirements set forth in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents. Testimony shall only be served, as set forth in Rule 1.7.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission's Docket Office at [www.cpuc.ca.gov/PUC/efiling](http://www.cpuc.ca.gov/PUC/efiling). All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at [process\\_office@cpuc.ca.gov](mailto:process_office@cpuc.ca.gov) to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f). Discovery

## **8. Discovery**

Discovery may be conducted by the parties consistent with Article 10 of the Commission's Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply to the service of discovery and discovery shall not be served on the Administrative Law Judge. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

## **9. Public Advisor**

Any person who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).

## **10. Settlement and Alternative Dispute Resolution**

While the schedule does not include specific dates for settlement conferences it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr/>, for more information.

If requested, the assigned ALJ will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at [adr\\_program@cpuc.ca.gov](mailto:adr_program@cpuc.ca.gov). The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

If the parties reach a settlement or stipulation that resolves any issue in this proceeding before the hearing, the parties shall immediately notify the assigned ALJ, and provide notice of such settlement on the service list as soon as possible but no later than the day before the scheduled hearing.

**IT IS RULED** that:

1. The Commission's preliminary determination categorizing this proceeding as adjudicatory and finding that hearings are needed is affirmed. Evidentiary hearing in this proceeding is scheduled for December 1, 2016, at 9:30 am, at the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, CA 94102.
2. The issues in this proceeding, as set forth in Section 2 of this Scoping Memo, are confirmed and shall remain the only issues to be addressed in this proceeding unless subsequently modified by the assigned Commissioner.
3. The schedule for this proceeding, as set forth in Section 3 of this Scoping Memo, is confirmed and shall remain in effect unless subsequently modified by the assigned Commissioner or the ALJ.
4. The service list established at the prehearing conference will be the permanent service list for this proceeding.
5. The parties shall file and serve all pleadings, and serve their respective testimony pursuant to Article 1 of the Commission's Rules of Practice and procedure.
6. *Ex parte* communications are prohibited in this proceeding. (See Public Utilities Code § 1701.2(c); Article 8 of the Commission's Rules of Practice and Procedure.)

7. Pursuant to Rule 13.2, ALJ Adeniyi Ayoade is designated as the Presiding Officer.

Dated October 5, 2016, at San Francisco, California.

/s/ CARLA J. PETERMAN  
Carla J. Peterman  
Assigned Commissioner